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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,464	03/25/2004	Ryan Cunningham	U000-P04042US	9324
33356 7590 08/22/2007 SoCAL IP LAW GROUP LLP 310 N. WESTLAKE BLVD. STE 120 WESTLAKE VILLAGE, CA 91362			EXAMINER MANIWANG, JOSEPH R	
			ART UNIT 2144	PAPER NUMBER
			MAIL DATE 08/22/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/810,464

Applicant(s)

CUNNINGHAM ET AL.

Examiner

Joseph R. Maniwang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 61-72 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 61-72 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Rejections - 35 USC § 102***

2. Claims 61-69 are rejected under 35 U.S.C. 102(b) as being anticipated by Radziewicz et al. (U.S. Pat. No. 5,854,897), hereinafter referred to as Radziewicz.
3. Regarding claims 61, 64, and 67, Radziewicz disclosed a method and system comprising requesting a first web page via a network connection (see column 11, lines 30-33); displaying the first web page in a browser window (see column 5, lines 22-27; Fig. 8A); detecting if the computer is not actively sending and not actively receiving data via the network connection, and if so, automatically commencing downloading a video file via the network connection to the computer (see column 5, lines 43-47, 53-54; column 6, lines 13-32, 36-39); during downloading the video file, detecting if the computer is commencing downloading a second web page, and if so, waiting to continue downloading the video file (see column 11, lines 41-44); after completing downloading the video file, automatically commencing displaying the video file in a viewer window (see column 7, lines 11-17); wherein the size of the viewer window is of a size not less than a predetermined minimum size (see column 13, lines 16-44); and wherein the viewer window is located on top of all open windows (see column 20, line 60 through column 21, line 5; Fig. 8A-8D).

4. Regarding claims 62, 65, and 68, Radziewicz disclosed the method and system further comprising sending a questionnaire to the computer prior to commencing downloading the second web page (see column 8, lines 1-15; column 14, lines 1-19).
5. Regarding claims 63, 66, and 69, Radziewicz disclosed the method and system wherein the viewer window is distinct from the browser window displaying the first web page (see column 13, lines 15-23; Fig. 8A).
6. Regarding claims 70-72, Radziewicz disclosed the method and system wherein the display run time of the video file is between 30 seconds and 2 ½ minutes (see column 15, line 56 through column 16, line 2).

### ***Response to Arguments***

7. Applicant's arguments filed 06/11/07 have been fully considered but they are not persuasive.
8. Regarding claims 61-69 rejected under 35 U.S.C. 102(b) as being anticipated by Radziewicz (U.S. Pat. No. 5,854,897), Applicant asserts that Radziewicz does not teach "after completing downloading the video file, automatically commencing displaying the video file in a viewer window wherein the size of the viewer window is of a size not less than a predetermined minimum size and wherein the viewer window is located on top of all open windows" as currently amended in exemplary claim 61. Specifically, Applicant argues that the prior art reference teaches that an advertisement is only transmitted and displayed while a connection path remains idle. Applicant asserts that Radziewicz discloses that the advertisement is displayed as it is being transmitted to the computer,

and that such displaying is interrupted/closed when the connection path is not idle. To this point, Examiner first submits that interrupting/closing the displayed advertisement when the connection path is not idle is only one possible embodiment in Radziewicz, namely the fourth embodiment (see column 6, lines 1-12). Additionally, it is noted that Applicant's assertion that "Radziewicz discloses displaying the advertisement as it is being transmitted" is not supported with evidence from the reference. In fact, Radziewicz suggests the opposite, stating that an advertisement (i.e., "video file") is displayed only after transmitting the advertisement ("Such downloaded announcement are then played/displayed on the DTE", see column 7, lines 15-17). This disclosure reads on the claimed limitation requiring "after completing downloading the video file, automatically commencing displaying the video file" as argued. Furthermore, contrary to Applicant's assertion that such a display is interrupted/closed when the connection path is idle, Radziewicz discloses the opposite, stating that a downloaded advertisement is displayed even after the connection is busy and not idle ("Although the advertisements are transmitted to the DTE 14 when the connection path 20 is idle, the last advertisement to be displayed prior to the connection path 20 becoming busy will continue to be displayed while the connection path 20 is busy. The advertisement will thus remain displayed until such time as the connection path 20 is no longer busy", see column 13, lines 35-44).

9. Applicant further asserts that Radziewicz does not disclose "wherein the size of the viewer window is of a size not less than a predetermined minimum size and wherein the viewer window is located on top of all open windows". While Applicant's remarks

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regarding this limitation provide no specific argument, Examiner submits still that Radziewicz clearly discloses such a feature, disclosing a "fixed announcement window" of a specific size (see column 13, lines 16-44), as well as such window being on top of all open windows as claimed (see column 20, line 60 through column 21, line 5; Fig. 8A-8D).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph R. Maniwang whose telephone number is (571) 272-3928. The examiner can normally be reached on Mon-Fri 8:00-4:30.

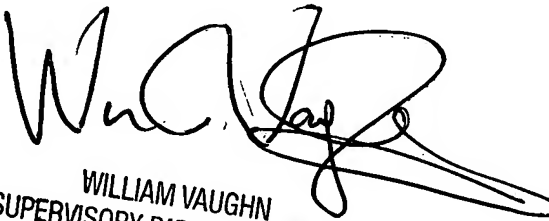
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William C. Vaughn can be reached on (571) 272-3922. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JM



WILLIAM VAUGHN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100